

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 551 - SB 624

March 4, 2019

SUMMARY OF ORIGINAL BILL: Establishes the “Facilitating Business Rapid Response to State Declared Disaster Act”.

Establishes that out-of-state businesses and employees who respond to a state of emergency in Tennessee would be responsible for the following taxes: fuel excise taxes, state and local sales taxes, local hotel occupancy taxes, liquor/beer/alcoholic beverages taxes, and any other transaction tax or fee assessed in the usual course of business.

Specifies that the above provisions do not limit or otherwise alter or amend the power of a court to exercise personal or in rem jurisdiction over responding out-of-state businesses, responding out-of-state employees, or their property, but that jurisdiction may not be used as a basis to impose a tax, fee, or other obligation contrary to the protections provided by this bill. Provides that it does not confer any immunity from any criminal prosecution in any court of this state.

Establishes that a responding out-of-state employee is eligible for exemption from taxes that occur as a result of establishing residency in the state, as the responders would not establish a residency or presence in the state and are not required to register, report, or pay any tax or fee related to licensure, certification or permitting provided the employee holds a license, certificate, or permit in the state of employee's permanent residence or any other state. Establishes that such an employee is deemed licensed, certified, or permitted by the state to render disaster or emergency related work.

Establishes that responding out-of-state business and employees are relieved of any obligation in this state for unemployment insurance, occupational licensing fees, state and local sales tax, state and local ad valorem tax on tangible personal property, regulation by public utilities, and the Excise Tax Law of 1999.

Specifies that the protections specified under this legislation should be interpreted broadly to relieve a responding out-of-state business and a responding out-of-state employee from any obligation to provide documentation, registration, tax, fee, or other submission or filing with the state or its political subdivisions.

Specifies that in the event a responding out-of-state business or a responding out-of-state employee either remains in the state after the completion of emergency or disaster related work or otherwise ceases to qualify as a responding out-of-state business or responding out-of-state employee, such business or individual loses the protections of this legislation effective as of the first date on which the business or individual no longer qualifies as a responding out-of-state business or responding out-of-state employee.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue – \$160,700

Decrease Local Revenue – \$69,100

SUMMARY OF AMENDMENT (004404): Deletes and rewrites all language in the original bill after the caption such that the only substantive change is deleting the provisions that out-of-state purchases brought into Tennessee by out-of-state businesses are not subject to the use tax.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease State Revenue – \$4,400

Decrease Local Revenue – \$5,300

Assumptions for the bill as amended:

- According to information provided by the Department of Revenue (DOR), the average annual cost of natural disasters is \$463,279,277.
- It can be reasonably estimated that approximately one percent, or \$4,632,792, of this total average is related to critical infrastructure damage work performed by responding out-of-state businesses.
- Most of the responding out-of-state businesses would be considered Class 4 business taxpayers, for whom the business tax rate is 0.1 percent.
- It is assumed they are subject to both the county and municipal business taxes.
- The total recurring decrease in business tax revenue is estimated to be \$9,266 ($\$4,632,792 \times 0.1\% \times 2$).
- Approximately 42.5 percent of business tax collections are allocated to the state, with the remaining 57.5 percent allocated to the local governments.
- The recurring decrease in business tax revenue is estimated to be \$3,938 for the state ($\$9,266 \times 42.5\%$) and \$5,328 for the local government ($\$9,266 \times 57.5\%$).
- The current franchise tax rate is 0.25 percent of the greater of net worth or real and tangible property in Tennessee. The minimum tax is \$100.
- Estimating a minimum of five out-of-state businesses at the minimum franchise tax rate, the recurring decrease in state franchise tax revenue is estimated to be \$500 ($\100×5).
- The loss in excise tax revenue is estimated to not be significant.
- The total recurring decrease in state revenue is estimated to be \$4,438 ($\$3,938 + \500).
- The total recurring decrease in local revenue is estimated to be \$5,328.
- The provisions of this legislation will not have a significant fiscal impact to the Tennessee Emergency Management Agency's resources or personnel.

- Pursuant to Tenn. Code Ann. § 58-2-403, the Emergency Management Assistance Compact provides reciprocity for out-of-state health care professionals when assistance is requested by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster.
- Extending a similar provision to out-of-state employees to be deemed licensed, certified, or permitted by the state to render disaster or emergency related work will not result in a significant fiscal impact to state or local government.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/jmg